

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

VS.

GERARDO VILLEGAS,

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CRIMINAL NO. H-09-029-05

ORDER

Defendant Gerardo Villegas has asked this court to reconsider the order detaining them pending trial. When the district court acts on a motion to revoke or amend a magistrate judge's pretrial detention order, the district court acts *de novo* and must make an independent determination of the proper pretrial detention or conditions for release. *United States v. Rueben*, 974 F.2d 580, 585 (5th Cir. 1992).

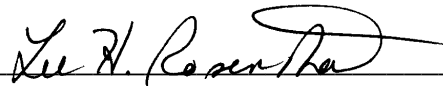
In evaluating whether there are conditions of release that will reasonably assure the appearance of the defendant at trial and the safety of others and the community, this court must consider the factors laid out by 18 U.S.C. § 3142(g). They are: (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug; (2) the weight of the evidence against the person; (3) the history and characteristics of the person, including (A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, record concerning appearance at court proceedings, and (B) whether at the time of the current offense or arrest the defendant was on probation or parole; and (4)

the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

The defendant is charged with a drug trafficking offense. A presumption of detention applies. There is both physical and other evidence against the defendant. The defendant has a history of drug abuse and an extensive criminal history. The evidence presented as to his conduct while on bond shows that the defendant poses a danger to the community. That evidence includes threatening his former spouse in telephone communications, resulting in her making a report to her local police department. The evidence includes firearms, marijuana, and cocaine in the home when he was arrested while on bond.

This court finds that no combination of conditions can be imposed that will reasonably assure the safety of the community or the defendant's appearance at trial. The defendant's motion for reconsideration of the order of detention pending trial is denied.

SIGNED on December 16, 2009, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge